

FREEDMAN & TAITELMAN LLP
BRYAN J. FREEDMAN (SBN 151990)
e-mail: bfreedman@ftllp.com
1901 Avenue of the Stars, Suite 500
Los Angeles, California 90067
Telephone: (310) 201-0005
Fax: (310) 201-0045

DOLL AMIR & ELEY LLP
GREGORY L. DOLL (SBN 193205)
e-mail: gdoll@dollamir.com
MICHAEL M. AMIR (SBN 204291)
e-mail: mamir@dollamir.com
1888 Century Park East, Suite 1106
Los Angeles, California 90067
Telephone: (310) 557-9100
Fax: (310) 557-9101

Attorneys for Defendant
MARIO LAVANDEIRA dba Perez Hilton

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

X17, INC., a California corporation,
Plaintiff,

vs.

MARIO LAVANDEIRA, dba Perez
Hilton, and DOES 1 through 10,
inclusive,

Defendants.

CASE NO. CV 06-07608 GAF (JCx)

**AMENDED ANSWER TO FIRST
AMENDED COMPLAINT; DEMAND
FOR JURY TRIAL**

Defendant Mario Lavanderia, dba Perez Hilton, ("Defendant"), for himself and no other individuals or entities, by and through his attorneys of record, Freedman & Taitelman, LLP and Doll Amir & Eley, LLP, as and for his amended answer to the First Amended Complaint ("FAC") filed by Plaintiff, hereinafter admits or denies the allegations of the FAC as follows:¹

¹ Defendant is filing this answer pursuant to the parties' stipulation and the Court's January, 9, 2008 order regarding amendment to the answer.

1 1. Admits the allegation that Plaintiff, by and through its FAC, purportedly
2 seeks damages and injunctive relief against Defendant for copyright infringement in
3 violation of the United States Copyright Act, 17 U.S.C. §§ 101 *et seq.*; however,
4 Defendant denies that any such infringement occurred or that any such injunctive
5 relief or damages are warranted in this case.

6 2. Avers that no response is required to paragraph 2 of the FAC insofar as it
7 merely asserts a legal conclusion.

8 3. Admits the allegation contained in paragraph 3 of the FAC that the
9 Defendant may be subject to the personal jurisdiction of the Court insofar as he
10 resides in this Judicial District and may be found and transacts business in this
11 Judicial District. Defendant denies the remaining allegations contained in paragraph
12 3 of the FAC.

13 4. Lacks knowledge or information sufficient to form a belief as to the truth
14 of the allegations contained in paragraph 4 of the FAC, and, on that basis, denies
15 them.

16 5. Denies the allegations contained in paragraph 5 of the FAC, except admits
17 that Defendant is an individual residing in California, does business under the name
18 Perez Hilton and operates an Internet website located at <http://www.perezhilton.com>.

19 6. Lacks knowledge or information sufficient to form a belief as to the truth
20 of the allegations contained in paragraph 6 of the FAC, and on that basis denies them.

21 7. Lacks knowledge or information sufficient to form a belief as to the truth
22 of the allegations contained in paragraph 7 of the FAC, and, on that basis, denies
23 them.

24 8. Lacks knowledge or information sufficient to form a belief as to the truth
25 of the allegations contained in paragraph 8 of the FAC, and, on that basis, denies
26 them.

27

28

1 9. Lacks knowledge or information sufficient to form a belief as to the truth
2 of the allegations contained in paragraph 9 of the FAC, and, on that basis, denies
3 them.

4 10. Lacks knowledge or information sufficient to form a belief as to the truth
5 of the allegations contained in paragraph 10 of the FAC, and, on that basis denies
6 them.

7 11. Denies the allegations contained in paragraph 11 of the FAC, except
8 admits that Defendant operates the website <http://www.perezhilton.com>, a news
9 reporting website which, among other things, provides satirical commentary on
10 current celebrity-related news written and composed by Defendant, and which
11 generates advertising revenue.

12 12. Denies the allegations contained in paragraph 12 of the FAC.

13 13. Denies the allegations contained in paragraph 13 of the FAC except
14 admits that he operates a news reporting website that, among other things, provides
15 satirical commentary on current celebrity-related news, and that Defendant may have
16 posted images of Katie Homes on his website on this particular date.

17 14. Denies the allegations contained in paragraph 14 of the FAC except
18 admits that he operates a news reporting website that, among other things, provides
19 satirical commentary on current celebrity-related news, and that Defendant may have
20 posted images of Britney Spears on his website on this particular date.

21 15. Denies the allegations contained in paragraph 15 of the FAC except
22 admits that he operates a news reporting website that, among other things, provides
23 satirical commentary on current celebrity-related news, and that Defendant may have
24 posted images of Jessica Simpson on this particular date.

25 16. Denies the allegations contained in paragraph 16 of the FAC except
26 admits that he operates a news reporting website that, among other things, provides
27 satirical commentary on current celebrity-related news, and that Defendant may have
28 posted an image Heather Locklear on this particular date.

1 17. Denies the allegations contained in paragraph 17 of the FAC except
2 admits that he operates a news reporting website that, among other things, provides
3 satirical commentary on current celebrity-related news, and that Defendant may have
4 posted images of Kevin Federline on this particular date.

5 18. Denies the allegations contained in paragraph 18 of the FAC except
6 admits that he operates a news reporting website that, among other things, provides
7 satirical commentary on current celebrity-related news, and that Defendant may have
8 posted images of Britney Spears on this particular date.

9 19. Denies the allegations contained in paragraph 19 of the FAC except
10 admits that he operates a news reporting website that, among other things, provides
11 satirical commentary on current celebrity-related news, and that Defendant may have
12 posted images of Britney Spears on this particular date.

13 20. Denies the allegations contained in paragraph 20 of the FAC except
14 admits that he operates a news reporting website that, among other things, provides
15 satirical commentary on current celebrity-related news, and that Defendant may have
16 posted an image of Tom Cruise and Katie Homes on this particular date.

17 21. Denies the allegations contained in paragraph 21 of the FAC except
18 admits that he operates a news reporting website that, among other things, provides
19 satirical commentary on current celebrity-related news, a\ and that Defendant may
20 have posted an image of Britney Spears on this particular date.

21 22. Denies the allegations contained in paragraph 22 of the FAC except
22 admits that he operates a news reporting website that, among other things, provides
23 satirical commentary on current celebrity-related news, and that Defendant may have
24 posted images of Katie Homes on this particular date.

25 23. Denies the allegations contained in paragraph 23 of the FAC except
26 admits that he operates a news reporting website that, among other things, provides
27 satirical commentary on current celebrity-related news, and that Defendant may have
28 posted an image of Kevin Federline on this particular date.

1 24. Denies the allegations contained in paragraph 24 of the FAC except
2 admits that he operates a news reporting website that, among other things, provides
3 satirical commentary on current celebrity-related news, and that Defendant may have
4 posted images of Mischa Barton on this particular date.

5 25. Denies the allegations contained in paragraph 25 of the FAC except
6 admits that he operates a news reporting website that, among other things, provides
7 satirical commentary on current celebrity-related news, and that Defendant may have
8 posted an image of Nicole Kidman on this particular date.

9 26. Denies the allegations contained in paragraph 26 of the FAC except
10 admits that he operates a news reporting website that, among other things, provides
11 satirical commentary on current celebrity-related news, and that Defendant may have
12 posted images of Christina Aguilera on this particular date.

13 27. Denies the allegations contained in paragraph 27 of the FAC except
14 admits that he operates a news reporting website that, among other things, provides
15 satirical commentary on current celebrity-related news, and that Defendant may have
16 posted an image of Ryan Phillippe on this particular date.

17 28. Denies the allegations contained in paragraph 28 of the FAC except
18 admits that he operates a news reporting website that, among other things, provides
19 satirical commentary on current celebrity-related news, and that Defendant may have
20 posted image of Cameron Diaz on this particular date.

21 29. Denies the allegations contained in paragraph 29 of the FAC except
22 admits that he operates a news reporting website that, among other things, provides
23 satirical commentary on current celebrity-related news, and that Defendant may have
24 posted an image of Cameron Diaz on this particular date.

25 30. Denies the allegations contained in paragraph 30 of the FAC except
26 admits that he operates a news reporting website that, among other things, provides
27 satirical commentary on current celebrity-related news, and that Defendant may have
28 posted an image of Tom Cruise and Katie Homes on this particular date.

1 31. Denies the allegations contained in paragraph 31 of the FAC except
2 admits that he operates a news reporting website that, among other things, provides
3 satirical commentary on current celebrity-related news, and that Defendant may have
4 posted images of Kevin Federline on this particular date.

5 32. Denies the allegations contained in paragraph 32 of the FAC except
6 admits that he operates a news reporting website that, among other things, provides
7 satirical commentary on current celebrity-related news, and that Defendant may have
8 posted images of Jessica Simpson on this particular date.

9 33. Denies the allegations contained in paragraph 33 of the FAC except
10 admits that he operates a news reporting website that, among other things, provides
11 satirical commentary on current celebrity-related news, and that Defendant may have
12 posted an image of Britney Spears on this particular date.

13 34. Denies the allegations contained in paragraph 34 of the FAC except
14 admits that he operates a news reporting website that, among other things, provides
15 satirical commentary on current celebrity-related news, and that Defendant may have
16 posted images of Britney Spears on this particular date.

17 35. Denies the allegations contained in paragraph 35 of the FAC except
18 admits that he operates a news reporting website that, among other things, provides
19 satirical commentary on current celebrity-related news, and that Defendant may have
20 posted an image of Britney Spears on this particular date.

21 36. Denies the allegations contained in paragraph 36 of the FAC except
22 admits that he operates a news reporting website that, among other things, provides
23 satirical commentary on current celebrity-related news, and that Defendant may have
24 posted images of Nicole Richie on this particular date.

25 37. Denies the allegations contained in paragraph 37 of the FAC except
26 admits that he operates a news reporting website that, among other things, provides
27 satirical commentary on current celebrity-related news, and that Defendant may have
28 posted an image of Britney Spears on this particular date.

1 38. Denies the allegations contained in paragraph 38 of the FAC except
2 admits that he operates a news reporting website that, among other things, provides
3 satirical commentary on current celebrity-related news, and that Defendant may have
4 posted an image of Britney Spears on this particular date.

5 39. Denies the allegations contained in paragraph 39 of the FAC except
6 admits that he operates a news reporting website that, among other things, provides
7 satirical commentary on current celebrity-related news, and that Defendant may have
8 posted an image of Britney Spears on this particular date.

9 40. Denies the allegations contained in paragraph 40 of the FAC except
10 admits that he operates a news reporting website that, among other things, provides
11 satirical commentary on current celebrity-related news, and that Defendant may have
12 posted images of Kevin Federline on this particular date.

13 41. Denies the allegations contained in paragraph 41 except admits that
14 Plaintiff filed a complaint on or about November 30, 2006.

15 42. Denies the allegations contained in paragraph 42 of the FAC.

16 43. Denies the allegations contained in paragraph 43 of the FAC except
17 admits that he operates a news reporting website that, among other things, provides
18 satirical commentary on current celebrity-related news, and that Defendant may have
19 posted images of Britney Spears on this particular date.

20 44. Denies the allegations contained in paragraph 44 of the FAC except
21 admits that he operates a news reporting website that, among other things, provides
22 satirical commentary on current celebrity-related news, and that Defendant may have
23 posted images of Britney Spears on this particular date.

24 45. Denies the allegations contained in paragraph 45 of the FAC except
25 admits that he operates a news reporting website that, among other things, provides
26 satirical commentary on current celebrity-related news, and that Defendant may have
27 posted images of Jennifer Garner on this particular date.

28

1 46. Denies the allegations contained in paragraph 46 of the FAC except
2 admits that he operates a news reporting website that, among other things, provides
3 satirical commentary on current celebrity-related news, and that Defendant may have
4 posted images of Nicole Richie and Joel Madden on this particular date.

5 47. Denies the allegations contained in paragraph 47 of the FAC except
6 admits that he operates a news reporting website that, among other things, provides
7 satirical commentary on current celebrity-related news, and that Defendant may have
8 posted images of Britney Spears on this particular date.

9 48. Denies the allegations contained in paragraph 48 of the FAC except
10 admits that he operates a news reporting website that, among other things, provides
11 satirical commentary on current celebrity-related news, and that Defendant may have
12 posted images of Britney Spears on this particular date.

13 49. Denies the allegations contained in paragraph 49 of the FAC except
14 admits that he operates a news reporting website that, among other things, provides
15 satirical commentary on current celebrity-related news, and that Defendant may have
16 posted images of Jennifer Garner on this particular date.

17 50. Denies the allegations contained in paragraph 50 of the FAC except
18 admits that he operates a news reporting website that, among other things, provides
19 satirical commentary on current celebrity-related news, and that Defendant may have
20 posted images of Katie Holmes on this particular date.

21 51. Denies the allegations contained in paragraph 51 of the FAC except
22 admits that he operates a news reporting website that, among other things, provides
23 satirical commentary on current celebrity-related news, and that Defendant may have
24 posted images of Britney Spears on this particular date.

25 52. Denies the allegations contained in paragraph 52 of the FAC except
26 admits that he operates a news reporting website that, among other things, provides
27 satirical commentary on current celebrity-related news, and that Defendant may have
28 posted images of Lindsay Lohan on this particular date.

1 53. Denies the allegations contained in paragraph 53 of the FAC except
2 admits that he operates a news reporting website that, among other things, provides
3 satirical commentary on current celebrity-related news, and that Defendant may have
4 posted an image of Lindsay Lohan on this particular date.

5 54. Denies the allegations contained in paragraph 54 of the FAC except
6 admits that he operates a news reporting website that, among other things, provides
7 satirical commentary on current celebrity-related news, and that Defendant may have
8 posted images of Nicole Ritchie on this particular date.

9 55. Denies the allegations contained in paragraph 55 of the FAC except
10 admits that he operates a news reporting website that, among other things, provides
11 satirical commentary on current celebrity-related news, and that Defendant may have
12 posted an image of Kirsten Dunst on this particular date.

13 56. Denies the allegations contained in paragraph 56 of the FAC except
14 admits that he operates a news reporting website that, among other things, provides
15 satirical commentary on current celebrity-related news, and that Defendant may have
16 posted an image of Jennifer Garner on this particular date.

17 57. Denies the allegations contained in paragraph 57 of the FAC except
18 admits that he operates a news reporting website that, among other things, provides
19 satirical commentary on current celebrity-related news, and that Defendant may have
20 posted images of Christina Aguilera and her husband on this particular date.

21 58. Denies the allegations contained in paragraph 58 of the FAC except
22 admits that he operates a news reporting website that, among other things, provides
23 satirical commentary on current celebrity-related news, and that Defendant may have
24 posted an image of Lindsay Lohan on this particular date.

25 59. Denies the allegations contained in paragraph 59 of the FAC.

26 60. Denies the allegations contained in paragraph 60 of the FAC.

27 61. Denies the allegations contained in paragraph 61 of the FAC.

28 62. Denies the allegations contained in paragraph 62 of the FAC.

1 63. Defendant repeats and realleges each and every response to paragraphs 1
2 through 62 hereof as if fully set forth herein.

3 64. Lacks knowledge or information sufficient to form a belief as to the truth
4 of the allegations contained in paragraph 64 of the FAC, and, on that basis, denies
5 them.

6 65. Lacks knowledge or information sufficient to form a belief as to the truth
7 of the allegations contained in paragraph 65 of the FAC, and, on that basis, denies
8 them.

9 66. Lacks knowledge or information sufficient to form a belief as to the truth
10 of the allegations contained in paragraph 66 of the FAC, and, on that basis, denies
11 them.

12 67. Denies the allegations contained in paragraph 67 of the FAC.

13 68. Denies the allegations contained in paragraph 68 of the FAC.

14 69. Denies the allegations contained in paragraph 69 of the FAC.

15 70. Denies the allegations contained in paragraph 70 of the FAC.

16 71. Denies the allegations contained in paragraph 71 of the FAC, except
17 admits that Plaintiff seeks the relief alleged therein, though Defendant denies that
18 Plaintiff is entitled to such relief.

19 72. Denies the allegations contained in paragraph 72 of the FAC, except
20 admits that Plaintiff seeks the relief alleges therein, though Defendant denies that
21 Plaintiff is entitled to such relief.

22 73. Defendant repeats and realleges each and every response to paragraphs 1
23 through 72 hereof as if fully set forth herein.

24 74. Denies the allegations contained in paragraph 74 of the FAC.

25 75. Denies the allegations contained in paragraph 75 of the FAC.

26 76. Lacks knowledge or information sufficient to form a belief as to the truth
27 of the allegations contained in paragraph 76 of the FAC, and, on that basis, denies
28 them.

1 77. Denies the allegations contained in paragraph 77 of the FAC.

2 78. Denies the allegations contained in paragraph 78 of the FAC.

3 79. Denies the allegations contained in paragraph 79 of the FAC.

4 80. Denies the allegations contained in paragraph 80 of the FAC.

5 81. Denies the allegations contained in paragraph 81 of the FAC.

6 82. Denies the allegations contained in paragraph 82 of the FAC, except
7 admits that Plaintiff seeks the relief alleged therein, though Defendant denies that
8 Plaintiff is entitled to such relief.

9 **AFFIRMATIVE DEFENSES**

10 83. Defendant has alleged defenses as set forth below to avoid the necessity
11 of needing to amend the Answer. Defendant recognizes that depending upon the
12 development of facts, some of the defenses may ultimately not be applicable. By
13 such pleading, Defendant also intends no alteration of the burden of proof and/or
14 burden of going forward with the evidence that otherwise exists with respect to any
15 particular issue at law or in equity. Furthermore, all defenses are pleaded in the
16 alternative, and do not constitute an admission of liability or as to whether Plaintiff is
17 entitled to any relief whatsoever.

18 **FIRST AFFIRMATIVE DEFENSE**

19 84. The FAC fails to state a claim upon which relief may be granted.

20 **SECOND AFFIRMATIVE DEFENSE**

21 85. Defendant's alleged conduct constitutes fair use.

22 **THIRD AFFIRMATIVE DEFENSE**

23 86. Plaintiff lacks standing to pursue its purported claims.

24 **FOURTH AFFIRMATIVE DEFENSE**

25 87. Defendant was authorized to engage in the allegedly conduct at issue.

26 **FIFTH AFFIRMATIVE DEFENSE**

27 88. Plaintiff has unclean hands.

28 **SIXTH AFFIRMATIVE DEFENSE**

1 89. Plaintiff's alleged copyright registrations are invalid.

2
3 **SEVENTH AFFIRMATIVE DEFENSE**

4 90. Plaintiff's claims are barred by the statute of limitations.

5 **EIGHTH AFFIRMATIVE DEFENSE**

6 91. Plaintiff's claims are barred by the doctrine of laches.

7 **NINTH AFFIRMATIVE DEFENSE**

8 92. Plaintiff's claims are barred by the doctrine of waiver.

9 **TENTH AFFIRMATIVE DEFENSE**

10 93. Plaintiff's claims are barred by the doctrine of equitable estoppel.

11 **ELEVENTH AFFIRMATIVE DEFENSE**

12 94. Plaintiff's damages or injury, if any, are the sole and direct result of
13 forces, acts and omissions of Plaintiff or third parties independent of Defendant.

14 **TWELFTH AFFIRMATIVE DEFENSE**

15 95. Assuming, arguendo, that Plaintiff has any protectible rights with respect
16 to the photographs at issue, such rights were either expressly and/or impliedly
17 licensed by Plaintiff and/or other parties to Defendant.

18 **THIRTEENTH AFFIRMATIVE DEFENSE**

19 96. Assuming, arguendo, that Plaintiff has any protectible rights with respect
20 to the photographs at issue, such rights were transferred to or owned from inception
21 by Defendant.

22 **FOURTEENTH AFFIRMATIVE DEFENSE**

23 97. The FAC fails to demonstrate any entitlement to the remedy of injunctive
24 relief because it fails to state facts sufficient to show continuing acts, the threat of
25 irreparable harm or a reasonable likelihood of repetition of the alleged conduct if it
26 were in fact established to be wrongful.

FIFTEENTH AFFIRMATIVE DEFENSE

98. Plaintiff is barred from recovering on the allegations of the FAC, in whole or in part, because Defendant's conduct was justified or privileged.

SIXTEENTH AFFIRMATIVE DEFENSE

99. Plaintiff is barred from recovering for declaratory and injunctive relief on the allegations of the FAC because Plaintiff has an adequate remedy at law.

SEVENTEENTH AFFIRMATIVE DEFENSE

100. Plaintiff is barred from recovering under the second claim for relief because California does not recognize such a claim.

EIGHTEENTH AFFIRMATIVE DEFENSE

101. Plaintiff has no ownership rights to the copyrighted works.

NINETEENTH AFFIRMATIVE DEFENSE

101. Defendant was reasonably relying on advice of counsel when he took the actions giving rise to the copyright infringement allegations in this case.

TWENTIETH AFFIRMATIVE DEFENSE

102. Defendant alleges that he may have additional defenses or claims available to him of which he is not now aware. Defendant reserves the right to assert additional defenses or cross-claims, counterclaims, or third-party claims as may be revealed to be appropriate through discovery or otherwise.

WHEREFORE, Defendant demands judgment against Plaintiff as follows:

1. dismissing the FAC with prejudice;
2. declaring that Plaintiff has no lawful ownership interest in the photographs at issue, nor in the copyrights therein or that Defendant's transformative use of the purportedly copyrighted photographs constitutes fair use; and

///

///

///

///

1 3. granting such other and further relief as this Court deems just and proper,
2 including awarding Defendant the costs, interest and attorneys fees incurred by it in
3 the defense of this action.

4 Dated: January 11, 2008

FREEDMAN & TAITELMAN LLP

DOLL AMIR & ELEY LLP

5
6
7
8 By:  _____

9 Michael M. Amir
10 Attorneys for Defendant
11 MARIO LAVANDEIRA dba
12 Perez Hilton
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DEMAND FOR JURY TRIAL

Dated: January 11, 2008

DOLL AMIR & ELEY LLP

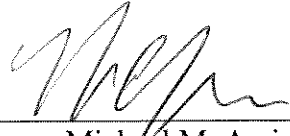
WCB

CERTIFICATE OF SERVICE

I hereby certify that on January 11, 2008, I caused to be electronically filed the foregoing **AMENDED ANSWER TO FIRST AMENDED COMPLAINT; DEMAND FOR JURY TRIAL** with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Bryan Freedman, Esq.
Freedman & Taitelman, LLP
1901 Avenue of the Stars
Suite 500
Los Angeles, CA 90067

Christopher W. Arledge
John Tehranian
Turner Green Afrasiabi & Arledge LLP
535 Anton Boulevard, Suite 850
Costa Mesa, CA 92626



Michael M. Amir